

BEFORE THE

Federal Communications Commission

WASHINGTON, D.C. 20554

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Federal Communications Commission
Office of the Secretary

In the Matter of

Implementation of the
Cable Television Consumer
Protection and Competition
Act of 1992

Cable Home Wiring

To: The Commission

MM Docket No. 92-260

COMMENTS OF NATIONWIDE COMMUNICATIONS INC.

Nationwide Communications Inc. ("NCI"), by its attorneys, hereby files its comments in response to the Notice of Proposed Rule Making, released November 6, 1992, in the above-captioned proceeding (the "Notice").

NCI is the owner and operator of the second largest private cable system in the United States. This private cable system serves nearly 80,000 multiple unit dwellings in Houston, Texas via a hybrid of master antenna television systems, satellite master antenna television systems, and community antenna television systems. Service to most of these dwellings is provided pursuant to a non-exclusive franchise granted by the city of Houston, where traditional franchised cable service is primarily provided by Time-Warner.¹ NCI also is the licensee of numerous radio and television broadcast stations throughout the United States.

¹ NCI previously owned and operated a traditional franchised cable system in central Ohio.

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While the Notice generally addresses issues concerning the ownership of cable wiring within a subscriber's home or individual dwelling unit, NCI believes that the ownership of such wiring is less critical than the maintenance of such wiring, and the impact that faulty maintenance has on the system operator's ability to protect the integrity of the delivery system and prevent signal leakage. As stated in the Notice, signal leakage is a matter of significant concern because such leaks can interfere with over-the-air services, including aeronautical and safety-of-life services.

Notice at para. 6. Faulty maintenance more commonly results in degradation of service to the subscriber, and interference to the television service of the subscriber's neighbors. While these effects are not life-threatening, they are contrary to the goals of optimal service established in the Cable Television Consumer Protection and Competition Act of 1992 (the "Act").

As a private cable operator, NCI provides service both where it owns the cable wiring within the dwelling unit of the individual subscriber, as well as where the individual subscriber owns the cable wiring. Where NCI owns the inside wiring, it regularly maintains and checks the wiring for signal leakage. However, where NCI does not own the inside wiring, it has on occasion been denied access to provide such maintenance. While the Commission notes that the legislative history of the Act indicates that cable operators should "continue to have legal responsibility to prevent signal leakage,"² the Commission must address the impact, on a

² Notice at para. 6, citing H.R. Rep. No. 628, 102d Cong., 2d Sess. (1992) (the "House Report") at 119.

cable operator's obligations to prevent signal leakage, of lack of operator access to improperly maintained individually owned cable wiring.³ Based on its experience in these matters, NCI urges the Commission to enact rules whereby the owner of wiring is held responsible for its maintenance; and that, where the cable operator is not the owner of the inside wiring of a dwelling, it has the right to discontinue service into that dwelling when it determines that the wiring is inadequate or inadequately maintained.

This right to discontinue service where individually owned inside wiring is not adequate or adequately maintained is necessary to insure the elimination of troublesome, and potentially life-threatening, signal leakage problems when the operator is unable to obtain access to prevent or repair the underlying wiring defects that cause signal leakage.⁴ The presence in the Commission's rules of such a right to discontinue service will also make it clear to local franchising authorities that the operator's responsibility to prevent signal leakage is paramount over the provision of service

³ Under Section 76.601(a) of the Commission's rules, only "operator[s] of ... cable television system[s]" are responsible for complying with the cable technical standards set out in Subpart K of Part 76 of the rules. NCI does not urge the Commission to expand these obligations to operators of multi-channel video systems that do not meet the definition of "cable television system" in the Communications Act or the Commission's rules.

⁴ The House Report demonstrates Congress' recognition of this problem:

Nothing in this section should be construed to create any right of a subscriber to inside wiring that would frustrate the cable operator's ability to prevent or protect against signal leakage during the period the cable operator is providing service to such subscriber.


House Report at 119.

to those subscribers refusing to accept the responsibility to prevent signal leakage.

Lastly, the Notice (para. 2) seeks comments on how the cable operator's property rights should be accounted for in the disposition of inside wiring upon a subscriber's termination of service. NCI urges the Commission to adopt regulations whereby the operator would receive the fair market value of the wiring.⁵ Anything less than this would provide a substantial disincentive to operators where subscribers can cancel service shortly after initiation, and use the home wiring paid for by the operator to initiate service with a competing multi-channel video provider.

Respectfully submitted,

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⁵ In determining such value, the regulations could account for depreciation. Under the Internal Revenue Service's Revenue Procedure 87-56, cable TV subscriber connection equipment may be depreciated over a period of 10 years.